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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

YE, LIN

ART UNIT

PAPER NUMBER

2612

DATE MAILED: 07/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/243,714
~~09/243,741~~

Applicant(s)

BAYNNER, DAN

Examiner

Lin Ye

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 April 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) 2-15 and 29-41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 16-17, 19-28, 42-43 and 45-55 is/are rejected.
- 7) ☒ Claim(s) 18 and 44 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Response to Arguments

1. Applicant's election with traverse of the election of species III, shown in Figure 8 (claims 16-27, 42-53 and 55) and generic claims 1, 28 and 54 in Paper No. 6 filed on 4/23/04 is acknowledged. The traversal is on the ground(s) that there is no burden on the examiner in searching all groups of restricted claims and that all claims should be examined together. This is not found persuasive because the examiner made a *prima facie* showing of examining burden by pointing out the distinct species. For examples, Species II (Figure 5) including elements such as thinning unit (302), buffer (303), LPF (301) and etc., which do not include in the Species I (Figure 1) and Species III (Figure 8). Species III (Figure 8) including elements such as modification block (2103), second frame memory (2022) and etc., which do not include in the Species I (Figure 2) and Species II (Figure 5). It also should be noted that the applicant was not correct to cited MPEP 803 ("there must be a serious burden on the examiner if restriction **is not required**"). The MPEP 803 (B) clearly stated there must be a serious burden on the examiner if restriction **is required**.

The requirement is still deemed proper and is therefore made Final.

2. Claims 2-15 and 28-41 withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Species I and II, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 6.

Claim Rejections - 35 USC § 102

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3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

((e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 28 and 54 are rejected under 35 U.S.C. 102(e) as being anticipated by Hieda et al. U.S. Patent 6,377,301.

Referring to claim 1, the Hieda reference discloses in Figure 1, an image processing apparatus comprising: input means (CCD 1, see lines 45-50) for inputting image data of a still image (one frame of image data); branching means (signal processing circuit 11, See Col. 3, lines 60-63) for branching (processing) the image data inputted by said input means; first memory (frame memory 12, See Col. 3, lines 60-65) used for storing one of the image data branched by said branching means; memory controller (controller 17, Col. 4, lines 10-12) which controls writing of the one of the image data, branched by said branching means into said first memory, into said first memory; a first switch (13, See Col. 4, lines 18-20) for selecting image data stored in said first memory(12) or the other branched image data not stored in said first memory; and output means for outputting the image data selected by said first switch (See Col. 5, lines 5-11).

Referring to claim 28, the Hieda reference discloses all subject matter as discussed with respected to same comment as with claim 1.

Referring to claim 54, the Hieda reference discloses all subject matter as discussed with respected to same comment as with claim 1.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 16, 17, 19-20, 23-24, 26-27, 42, 43, 45-46, 49-50, 52-53 and 55 rejected under 35 U.S.C. 103(a) as being unpatentable over Hieda et al. U.S. Patent 6,377,301 in view of Kato U.S Patent 6,148,031 and Ota U.S. Patent 6,201,571.

Referring to claim 16, the Hieda reference discloses all subject matter as discussed in respected claim 1, except that it does not explicitly show a second memory used for storing the image data that applied with the predetermined processing from the first image data.

The Kato reference discloses in Figure 1, a image processing apparatus comprise a first memory (20, see Col. 3, lines 27-28), a image processing means (image compression/decompression circuit 18) for reading the image data from said first memory and applying predetermined processing (inter-picture codes as recompressing) to the image data; and second memory (22, see Col. 3, line 63) used for storing the image data applied with the predetermined processing (See Col. 3, lines 54-63); a first switch (system control circuit 26, see Col. 3, line 55) for selecting

the image data stored in said first memory (20) or the image data stored in said second memory depending on still image taking or continuous image taking as shown in Figure 5. The Kato reference is evidence that one of ordinary skill in the art at the time to see more advantages the image processing apparatus including a second memory to receive the re-compressed image data from the first memory so that more memories may be used as necessary and user can perform selective compression process to compress that particular picture at a particularly high-quality level. For that reason, it would have been obvious to see the image processing apparatus has a second memory used for storing the image data that applied with the predetermined processing from the first image data disclosed by Hieda.

The Hieda reference also does not explicitly show the predetermined processing is applied to the image data stored in said first storing step while the image data is simultaneously outputted in the output means.

The Ota reference discloses in Figure 1, an image processing apparatus comprising: a first memory (frame memory 7); and image processing means (image processing section 8 and compressing section 9 and reduction processing section 10) applies the predetermined processing to the image data stored in said first memory (7) while the image data is also (simultaneously) outputted to the recording medium by file output control section (11, see Col. 4, lines 64-67 and Col. 5, lines 1-7 and lines 15-22). The Kato reference is evidence that one of ordinary skill in the art at the time to see more advantages the image processing apparatus can simultaneously apply predetermined image processing to the memory and also output initial original image from the memory so that it has more flexible options to independently store or output

the image data processed by a plurality predetermined processors. For that reason, it would have been obvious to see the predetermined processing is applied to the image data stored in said first storing step while the image data is simultaneously outputted in the output means disclosed by Hieda.

Referring to claim 17, the Hieda, Kato and Ota references disclose all subject matter as discussed in respected claim 1, and the Kato reference also discloses wherein said first switch (system control circuit 26) selects the image data stored in said second memory (22) after writing of the image data applied with the predetermined processing (re-compressing) by said image processing means to said second memory is completed to the output terminal (30) or electronic view finder (28, see Col. 3, lines 33-35) as shown in Figure 1.

Referring to claim 19, the Hieda, Kato and Ota references disclose all subject matter as discussed in respected claim 1, and the Ota reference discloses wherein the predetermined processing (reduction processing section 10, see Col.5, lines 21-23) preformed by said image processing means is reduction of an image.

Referring to claim 20, the Hieda, Kato and Ota references disclose all subject matter as discussed in respected claim 19, and the Ota reference discloses further comprising arranging means for controlling said second memory (33) so that a plurality of reduced images by said image processing means are written to said second memory as they are arranged within a frame image area as shown in Figure 1.

Referring to claim 23, the Hieda, Kato and Ota references disclose all subject matter as discussed in respected claim 16, and the Ota reference discloses comprising

a masking means (character image generation section 30, see Col. 6, lines 19-25) for adding (superimposing) mask data to the image data.

Referring to claim 24, the Hieda, Kato and Ota references disclose all subject matter as discussed in respected claim 23, and the Ota reference discloses further comprising a second switch (CPU 20) for selecting either the mask data (character image) outputted from said masking means (12) or the image data selected by said first switch (11), and outputting the selected data to said output means as shown in Figure 1.

Referring to claim 26, the Hieda, Kato and Ota references disclose all subject matter as discussed in respected claim 16, and the Hieda reference discloses an image sensing device (CCD 1) for sensing a still image, generating the image data, and transferring the image data to said input means (See Col. 3, lines 45-65).

Referring to claim 27, the Hieda, Kato and Ota references disclose all subject matter as discussed in respected claim 16, and the Ota reference discloses further comprising a display device for displaying the image data outputted from said output means as shown in Figure 4 (See Col. 7, lines 1-10).

Referring to claim 42, the Hieda, Kato and Ota references disclose all subject matter as discussed in respected claim 16.

Referring to claim 43, the Hieda, Kato and Ota references disclose all subject matter as discussed in respected claim 17.

Referring to claim 45, the Hieda, Kato and Ota references disclose all subject matter as discussed in respected claim 19.

Referring to claim 46, the Hieda, Kato and Ota references disclose all subject matter as discussed in respected claim 20

Referring to claim 49, the Hieda, Kato and Ota references disclose all subject matter as discussed in respected claim 23

Referring to claim 50, the Hieda, Kato and Ota references disclose all subject matter as discussed in respected claim 24

Referring to claim 52, the Hieda, Kato and Ota references disclose all subject matter as discussed in respected claim 26.

Referring to claim 53, the Hieda, Kato and Ota references disclose all subject matter as discussed in respected claim 27.

Referring to claim 55, the Hieda, Kato and Ota references disclose all subject matter as discussed in respected claim 16.

7. Claims 21-22 and 47-48 rejected under 35 U.S.C. 103(a) as being unpatentable over Hieda et al. U.S. Patent 6,377,301 in view of Kato U.S Patent 6,148,031, Ota U.S. Patent 6,201,571 and Parulski et al. U.S. Patent 5,900,909.

Referring to claim 21, the Hieda, Kato and Ota references disclose all subject matter as discussed in respected claim 16, except that except that the references do not explicitly show wherein the predetermined processing performed by the image processing means is rotation of an image.

The Parulski reference discloses in Figures 2-4, an electronic still camera (10) is provided with an electronic image sensor (CCD sensor 16) for outputting the read image signals on a CRT display by rotating the image. For example, the image processor (22) converts landscape image is 512 (V)x768 (H) on image sensor to

memory card (24) and outputs the stored image to portrait image 768(v)X512(H) on CRT display (See Col. 4, lines 15-26). The Parulski reference is evidence that one of ordinary skill in the art at the time to see more advantages for the image is correctly displayed on the screen of a player/computer without need for a special application program. For that reason, it would have been obvious to see the predetermined processing performed by the image processing means is rotation of an image disclosed by Hieda.

Referring to claim 22, the Hieda, Kato, Ota and Parulski references disclose all subject matter as discussed in respected claims 19 and 21. The Parulski reference discloses the image processing means is rotation of an image. The Ota reference discloses the image pressing means is reduction of an image and simultaneous display a plurality reduction images to a display for user quick reviewing as shown in Figure 4. It would have been obvious to that one of ordinary skill in the art at the time to see more advantages for image processing means is rotation of an image and reduction of the image associated with the rotation so that the maximum number of a plurality of reducing images which has same rotation (orientation) can be arranged on the display screen for user reviewing disclosed by Hieda.

Referring to claim 47, the Hieda, Kato, Ota and Parulski references disclose all subject matter as discussed in respected claim 21.

Referring to claim 48, the Hieda, Kato, Ota and Parulski references disclose all subject matter as discussed in respected claim 22.

8. Claims 25 and 51 rejected under 35 U.S.C. 103(a) as being unpatentable over Hieda et al. U.S. Patent 6,377,301 in view of Kato U.S. Patent 6,148,031, Ota U.S. Patent 6,201,571 and Nishimura et al. U.S. Patent 6,160,577.

Referring to claim 21, the Hieda, Kato and Ota references disclose all subject matter as discussed in respected claim 16, except that the references do not explicitly states the still image is obtained by sensing a photograph film.

The Nishimura reference discloses in Figure 1, a film player (100) comprising an image-sensing device (CCD 140, See Col. 3, lines 45-46) for sensing a still image which is obtained by sensing a photograph film (114, see Col. 3, lines 63-67 and Col. 4, lines 1-15). The Nishimura reference is evidence that one of ordinary skill in the art at the time to see more advantages for the image processing apparatus having more flexible options to be able sensing either object or photograph film for obtaining a digital still image. For that reason, it would have been obvious to see the still image is also can be obtained by sensing a photograph film disclosed by Hieda.

Referring to claim 51, the Hieda, Kato, Ota and Nishimura references disclose all subject matter as discussed in respected claim 21.

Allowable Subject Matter

9. Claim 18 and 44 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The prior art does not teach or fairly suggest the image processing apparatus according to claims 16-17, wherein the image data is outputted from said output

means in a video signal format, and said first switch changes selection of the image data during a vertical blanking period.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Lin Ye** whose telephone number is **(703) 305-3250**.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wendy R Garber can be reached on (703) 305-4929.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, DC. 20231

Or faxed to:

(703) 872-9306


Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal drive, Arlington, VA., Sixth Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.

Art Unit: 2612

Lin Ye

June 22, 2004


WENDY R. GARBER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600